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| APPLICATION NO.   | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|---|-------------|----------------------|---------------------|------------------|
| 10/747,938  | 12/29/2003  | Mark A. Schmisseur   | P17729              | 7088             |
| 7590  | 07/25/2006  |                      | EXAMINER            |                  |
| KONRAD RAYNES & VICTOR, LLP<br>Suite 210<br>315 S. Beverly Drive<br>Beverly Hills, CA 90212 |             |                      | CHAUDRY, MUJTABA M  |                  |
|   |             |                      | ART UNIT            | PAPER NUMBER     |
|   |             |                      | 2133                |                  |

DATE MAILED: 07/25/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

|                              |                                |                     |
|------------------------------|--------------------------------|---------------------|
| <b>Office Action Summary</b> | Application No.                | Applicant(s)        |
|                              | 10/747,938                     | SCHMISSEUR, MARK A. |
|                              | Examiner<br>Mujtaba K. Chaudry | Art Unit<br>2133    |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 1 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

1) Responsive to communication(s) filed on 29 December 2003.  
 2a) This action is FINAL.                    2b) This action is non-final.  
 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

4) Claim(s) 1-39 is/are pending in the application.  
 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.  
 5) Claim(s) \_\_\_\_\_ is/are allowed.  
 6) Claim(s) \_\_\_\_\_ is/are rejected.  
 7) Claim(s) \_\_\_\_\_ is/are objected to.  
 8) Claim(s) 1-39 are subject to restriction and/or election requirement.

#### Application Papers

9) The specification is objected to by the Examiner.  
 10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  
 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
 a) All    b) Some \* c) None of:  
 1. Certified copies of the priority documents have been received.  
 2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

|   |   |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                    | Paper No(s)/Mail Date. _____.   |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____. | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
|   | 6) <input type="checkbox"/> Other: _____.                                   |

## DETAILED ACTION

### *Election/Restrictions*

An attempt for provisional restriction requirement was made on Monday, July 17, 2006 with Applicant's Attorney, but was not successful.

Restrictions to one of the following inventions is required under 35 USC 121:

- I. Claims 1-20, drawn to transferring data and parity data in and out of logic engine, classified in class 714, subclass 801.
- II. Claims 21-39, drawn to a system with plurality of storage devices along with an operating system and a processor and a driver, classified in class 714, subclass 805.

The inventions are distinct, each from the other because of the following reasons:

Inventions Group I, transferring data and parity data in and out of logic engine and Group II, a system with plurality of storage devices along with an operating system and a processor and a driver are related as combination and subcombination. Inventions in this relationship are distinct if it can be shown that (1) the combination as claimed does not require the particulars of the subcombination as claimed for patentability, and (2) that the subcombination has utility by itself or in other combinations (MPEP § 806.05(c)). In the instant case, the combination as claimed does not require the particulars of the subcombination as claimed because the claims of Group I do not require the limitations a system with plurality of storage devices along with an operating system and a processor and a driver. The subcombination has separate utility such as in a single networked environment.

Because these inventions are distinct for the reasons given above and the search required for Group II is not required for Group I, restriction for examination purposes as indicated is proper.

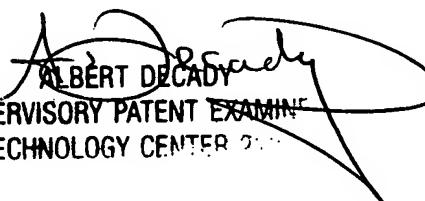
***Conclusion***

Any inquiries concerning this communication should be directed to the examiner, Mujtaba Chaudry who may be reached at 571-272-3817. The examiner may normally be reached Mon – Thur 6:30 am to 4:30 pm.

If attempts to reach the examiner by telephone are unsuccessful, please contact the examiner's supervisor, Albert DeCady at 571-272-3819.



Mujtaba Chaudry  
Art Unit 2133  
July 17, 2006



ALBERT DE CADY  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 21